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SERVICE DATE – DECEMBER 20, 2004

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34621]

Wisconsin & Southern Railroad Co.–Trackage Rights Exemption–Wisconsin Central Ltd.

Wisconsin Central Ltd. (WCL) has agreed to grant overhead trackage rights to Wisconsin & Southern Railroad Co. (WSOR) over WCL's rail line between the WCL/WSOR connection at North Milwaukee at milepost 95.18 and the property line at Saukville, WI, at milepost 114.8, a distance of approximately 19.62 miles.<sup>1</sup>

The earliest the transaction could be consummated was December 8, 2004, which was one week after the filing date of the notice of exemption. However, WSOR indicates that it proposes to consummate the transaction no later than 15 days after the Board renders a favorable decision in a Petition for Declaratory Order filed by the Wisconsin Department of Transportation (WisDOT) in STB Finance Docket No. 34623, currently pending, requesting a

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<sup>1</sup> A redacted version of the trackage rights agreement between WSOR and WCL was filed with the notice of exemption. WSOR concurrently filed a full, confidential version of the agreement under seal along with a motion for protective order under 49CFR 1104.14 to prevent public disclosure of commercially sensitive data contained in the document which could be damaging if disclosed. The motion will be granted. The confidential version of its agreement will be kept under seal and will not be placed in the public docket unless otherwise ordered by the Board.

determination that WisDOT will not become a rail carrier by its purchase of certain assets of a rail line over which WSOR is acquiring the right to operate.<sup>2</sup>

The purpose of the trackage rights is to enable WSOR to connect the Kiel-Saukville line with the rest of its rail system and provide shippers on the line with more frequent, locally oriented service than is currently provided by WCL. The trackage also will enable WSOR to offer shippers multiple Class I railroad connections, which they currently lack, new markets for their outbound traffic, and new sources for inbound traffic located on WSOR's rail system.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

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<sup>2</sup> WSOR states that the trackage rights will enable it to connect its rail system with that line, which WisDOT recently was authorized to acquire the assets of, and WSOR to operate, in Wisconsin Central Ltd.—Abandonment—in Ozaukee, Sheboygan and Manitowoc Counties, WI, STB Docket No. AB-303 (Sub-No. 27) (STB served Dec. 3, 2004). That line is known as the Plymouth Line and extends some 37-miles from milepost 114.8 near Saukville to milepost 151.8 near Kiel, in Ozaukee, Sheboygan and Manitowoc Counties, WI.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34621, must be filed with the Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John D. Heffner, 1920 N Street, N.W., Suite 800, Washington, DC 20036.

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Decided: December 13, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary